

**United States District Court  
District of Massachusetts**

**James Dore  
Plaintiff**

**v.**

**Defendants  
New Sensations Incorporated,  
Copyright Enforcement Group LLC,  
Marvin Cable  
First Amended Complaint**

**I. Introduction**

1. This is a civil action seeking monetary and injunctive relief against New Sensations Inc. (hereafter NSI), The Copyright Enforcement Group LLC (hereafter CEG), and Attorney Marvin Cable for their participation in an illegal copyright trolling business/extortion scheme against the plaintiff and other similarly stipulated victims.

**II. Parties**

2. Plaintiff is named James Dore, is over the age of 18, and is located at 97 Cedar St. Apt. 2, Haverhill MA, 01830.
3. Plaintiff is informed and believes that New Sensations Inc. (Hereafter NSI) is a company located at 21345 Lassen St., Chatsworth, CA 91311
4. Plaintiff is informed and believes that the Copyright Enforcement Group is a party to this matter; however both

the address provided by Jon Nicolini and on the CEG's website are virtual addresses. Plaintiff asks the court to keep an open mind to the possibility that the CEG is a front company for what is actually the partnered attorneys' activity; much like AF holdings is to Prenda Law. Plaintiff is still looking for a way to serve the CEG.

5. Plaintiff is informed and believes that Attorney Marvin N. Cable is located at Law Offices of Marvin Cable, PO Box 1630, Northampton, MA 01061.

6. Plaintiff believes that each defendant is also a potential witness to each other's role in their extortion scheme.

### **III. Jurisdiction**

7. This court has personal and subject matter jurisdiction over this matter as this action arises out of Federal Racketeering laws 18 U.S.C. 96 § 1961 et. Seq.

8. This Court has personal jurisdiction over this matter as it involves defendants who are not residents of the same state as the plaintiff.

### **IV. Venue**

9. Venue is proper in the District of Massachusetts as this is where all three defendants have carried out their conspired actions against the plaintiff. Their action took the form of lawsuit 1:12-cv-10944 where NSI acted as the "plaintiff", the CEG provided "evidence" and "expert

testimony", and Marvin Cable acted as the "attorney" to harass and harm the plaintiff in an attempt to unjustly extort money from him.

10. Venue is also proper since the only plausible counter claim that can arise will be one for "copyright infringement" of which, according to NSI, occurred in this state.

#### **V. Joinder**

11. Joinder of all three parties into one lawsuit is appropriate pursuant to Rule 20 as this action is brought against them for their direct involvement in the same action or occurrence against the plaintiff.

#### **VI. Background**

##### **A. Litigation History**

12. NSI first filed lawsuits against Doe defendants, using CEG's advertised "monetization" and settlement services, December 23, 2010. There were two cases filed, they were cases 3:10-cv-05863 and 5:10-cv-05864.
13. Case 3:10-cv-05863 allowed the mass joinder, during which NSI attained 82 settlements out of 1745 defendants before they voluntarily dismissed all remaining defendants. They are yet to refile against any Doe defendants.
14. Case 5:10-cv-05864 did not allow the mass joinder. After that, NSI's CEG attorney dismissed the case

voluntarily without stating any grounds therefore.

15. May 31, 2011, Case 4:11-cv-02835, changed into case 5:10-cv-05864 when all but one defendant was severed from the case, was filed. The case was officially dismissed for failure to prosecute because New Sensations failed to serve the remaining defendant within a generous amount of time.
16. No lawsuits against those Doe defendants dismissed without prejudice have been filed against them after the dismissal.
17. In all of NSI's current cases, not a single Doe Defendant has been served with a complaint and summons (Exhibits A: All New Sensations copyright infringement lawsuit Docket sheets).
18. All cases are assisted by the CEG; this is an obvious fact that can be noted by the CEG's signature "declaration of Jon Nicolini" found in all cases (Exhibits A).
19. No copyright infringement lawsuit filed by NSI has proceeded beyond the filing of a complaint and subpoena.
20. Plaintiff is aware of one complaint and summons issued by Mr. Cable in case 1:12-cv-10817, in which Mr. Cable sought a default and default judgment. The default was found moot by Judge Stearns because the defendant's mark, Mbiti Pierre, was never substituted for Doe 1. Judge Stearns gave the defendant 21 days to file an amended

complaint naming his mark as the defendant but **only** if he could provide an explanation of the basis under Rule 11 of his belief that Pierre is appropriately named as an infringer, Mr. Cable simply refused to respond and Judge Stearns dismissed the case with prejudice. (1:12-cv-10817 Doc # 30 and 31)

21. September 4<sup>th</sup>, New Sensations' copyright infringement case 8:12-cv-01291 had an order to show cause issued as to why they had not served the only remaining defendant in that case, defendant was dismissed voluntarily and without prejudice soon after that order was issued (Exhibits B).
22. On July 1<sup>st</sup>, 2013, NSI voluntarily dismissed case 1:12-cv-10803, a case that had stagnated for seven months. NSI had never filed proof of service or otherwise attempted to name Doe defendants. NSI also never pursued litigation in that matter.
23. CEG attorneys typically argue the complaints are often not served because most defendants opt to settle while refusing to disclose to the courts that acquiring the advertised settlements is the sole purpose and goal of the filed lawsuits and that they are distributing (seeding) the files themselves. They omit this fact because disclosure of that fact would warrant sanctions and dismissal for bad-faith litigation and possible investigation for potentially

criminal activity.

**B. Underlying Action**

24. On May 26, 2012, defendant NSI filed a false lawsuit against the above named plaintiff and many other "Doe" defendants, with the help of defendants CEG and Marvin Cable.

25. The purpose of this lawsuit was to scare and deceive unsuspecting does into believing that they violated defendant NSI's copyrights and to essentially threaten them with public humiliation.

26. The goal of this was to intentionally induce fear, cause emotional damages, and humiliation in order to extort "settlements" out of their victims. This was mostly carried out by defendant Marvin Cable.

27. NSI's complaint was constructed in a vague and deceptive manner, specifically so to omit any facts related to the torrent file in question and their personal knowledge of having used a service they knew would enable or otherwise allow the defendants to have access to their work or that they had knew that the CEG was distributing their work. NSI also omitted the fact that they did nothing to prevent the defendants from accessing and copying the work in question and that they intended to use their work to sue people before any copying of said work occurred or

was known to them.

28. The complaint was drafted and submitted by attorney Marvin Cable and was identical to nearly all but 3 of the 40 other complaints filed by him.

29. The defendants specifically alleged that the plaintiff and other doe defendants were in fact the defendants saying: "The true names of Defendants are unknown to the Plaintiff at this time. **Each Defendant** is known to Plaintiff only by the **Internet Protocol ("IP") address assigned to that Defendant** by his, her or its Internet Service Provider on the date and at the time at which the infringing activity of each Defendant was observed." (Emphasis added) Page 1, paragraph 7, of defendants' complaint.

30. The above named plaintiff was dismissed from that action after accumulating approximately \$1,000 in costs.

31. Although the plaintiff was dismissed from the underlying matter the plaintiff was never liable to NSI to begin with.

### **C. Underlying and Relevant Facts**

#### **i. NSI's Copyrights were not Infringed Upon**

32. Due to NSI's personal knowledge of how the CEG's monetization service functions and their personal and

recorded knowledge that people may copy their work as a result of using that service and their personal knowledge that the CEG was distributing the file, all people sued as a result of the CEG's service have not committed copyright infringement. NSI's complaint is and was without any legal grounds because NSI knew that people may be copying their work and chose to take no action to prevent the copying of the torrent file 022aab5cffdc7d012751cbb0f0c62f2dbec29a83. NSI's complaint is also without grounds because they reasonably knew that the CEG was distributing their works and chose not to stop that distribution.

33. A copyright holder giving away copies of their work does not denote copyright infringement by the copier.
34. A copyright holder allowing people to copy their work does not denote copyright infringement by the copier.
35. A copyright holder choosing not to prevent the copying of their works does not denote copyright infringement by the copier.
36. A copyright holder, having personal knowledge of people copying their work, secretly allowing people to copy their work does not denote copyright infringement by the copier.
37. A copyright holder, having personal knowledge of people copying their work, secretly choosing not to prevent the copying of their work does not denote copyright



infringement by the copier.

38. A copyright holder, having personal knowledge that their work may be being copied, secretly choosing to turn a blind eye to people copying their work while hiring someone else to monitor and record any copying of said work does not denote copyright infringement by the copier.

39. Because copyright law is consent dependent and because setting traps or monitoring works for activity require even a slight degree of personal knowledge of the copying by the copyright holder, the copyright holder has no lawful claim to copyright infringement when they use their works to set traps or monitor, without preventing, the copying of their works.

40. The initial discovery of a work being copied or distributed, without a copyright holder's consent, does denote copyright infringement. However, it is what the copyright holder decides to do after said discovery that determines if the initial act and any subsequent acts are copyright infringement and is still copyright infringement. Willful blindness to this fact does not excuse the "blizzard" of copyright infringement lawsuits that have descended upon the courts.

41. A copyright holder knowing that a work produced may be copied and uses a third-party monitoring system to remain

willfully blind to any copying or distribution of their work while still having such copying tracked does not have any legal right to sue for copyright infringement because they chose to be willfully blind to such actions, before any recorded copying took place, rather than taking preemptive preventative actions.

42. Willful blindness (sometimes called ignorance of law, willful ignorance or contrived ignorance or Nelsonian knowledge) is a term used in law to when an individual seeks to avoid civil or criminal liability for a wrongful act by intentionally putting himself in a position where he will be unaware of facts that would render him liable. The CEG's monetization service is designed to provide a copyright holder with just that: a way to avoid civil or criminal liability for a wrongful act by intentionally putting them-self in a position where they will be unaware of facts that would render him liable. The CEG does this in an attempt to create the technical circumstances required to have a legitimate copyright infringement claim without the need of a legitimate copyright infringement claim.

43. Additionally, as with all copyright trolling lawsuits, NSI interest in being willfully ignorant to the copying is obvious: if NSI were doing the monitoring or distribution personally they would be personally liable for all copying

and thus could not successfully establish prima facie infringement to trick the court with. Because they chose to be willfully blind to the fact of any copying, a fact that is unarguable since they factually hired the CEG, they never had the right to sue for copyright infringement in the first place.

**ii. The Defendants Filed Their Lawsuit with  
No Intention of Litigating**

44. The plaintiff is aware of 11 Judges and 4 Magistrate Judges who assigned to the defendants lawsuits beyond granting early discovery. Of those Judges, six have openly entered or openly agreed with orders or findings that specifically addressed the defendants' lack of interest in actually pursuing litigation in cases they filed.
45. Five of those six judges either found as fact or agreed with factual findings were Judge Gorton, Judge Ponsor, Judge O'Toole, Magistrate Judge Sorokin, and Magistrate Judge Boal. Judge Wolf dismissed actions by the defendants for failure to prosecute finding that "Plaintiff's disobedience of the 2013 order persuades the court that the plaintiff would rather abandon this action than address the issues raised by this court, which must be resolved before this court can proceed. All such orders and recommendations

with those findings that plaintiff was able to acquire are attached as Exhibit C.

46. The court has also noted that Mr. Cable has not once challenged the courts findings that the defendants had no intention of actually litigating.

47. In case 1:12-cv-10538, Judge Stearns dismissed the action all together because Mr. Cable failed to comply with the court's order (Exhibit D). The order was an order to show cause as to why the rest of the Doe defendants should not have been dismissed after the court dismissed one doe defendant. This exact scenario happened more than once in other cases filed by Mr. Cable and also dismissed by Judge Stearns.

48. In the underlying lawsuit (1:12-cv-10944), Magistrate Judge Bowler was noticeable angered when the defendants simply refused to show up at a hearing on September 13, 2012; Judge Bowler noted this on the docket (docket item 43). A few weeks later Mr. Cable failed to appear at another hearing in which his excuse was that he only checks his mail once a week, although he was excused then due to the short notice given and chastised for his professional irresponsibility, his excuse still did not explain why he failed to appear at the previous hearing since he was given at least two week notice. Mr. Cable is still yet to give

any excuse for his failure to appear.

49. Judges Sorokin, Boal, Ponsor, Gorton, and O'Toole have all found and/or agreed that the defendants also lacked any interest in identifying who the actual infringers are. Rather, they agreed with Judge Sorokin's finding that, in so many words, even though they claimed to be pursuing infringers they were instead targeting non-party subscribers.

50. On October 31, 2012, Judge Zobel terminated case 1:12-cv-10537 without stating any cause therefore. A review of the docket shows a common tie with what over half of the judges presiding in these cases have complained of; the defendants' lack of interest in litigation or a failure to prosecute. Although it is merely speculation, the facts are consistent with the findings of other judges in this court.

51. Not only did the Mr. Cable never challenge Judge Sorokin's or Judge Boal's factual finding that the defendants had no interest in litigating their cases; Mr. Cable actually demonstrated that both Judges were actually correct in their finding. In case 3:12-cv-30087, Judge Boal issued a recommendation noting that Mr. Cable had no interest in litigation or identifying infringers and recommended that all but Doe 1 be severed from the case. Judge Ponsor agreed with Judge Boal's findings and issued

an order accordingly, On July 1, 2013, Mr. Cable finally responded to all this by dismissing the case voluntarily and without stating any grounds therefore (Exhibit E).

52. Essentially half of the judges presiding in these cases essentially agree that the defendants never had any intention of litigating their case and that they had no intention of identifying any real infringers. Thus, the court has essentially found the defendants to have been in bad faith.

53. Regardless of the merits of their claims, the court has essentially found as fact that the defendants' lawsuits were filed in bad faith as they were filed with no intent to actually pursue litigation or infringers.

54. A complete review of all 40 of Mr. Cable's lawsuits (some which include all three defendants) will reveal the following: 13 were dismissed by the court for reasons ranging from failure to prosecute to severing all does after they collected at least one settlement; 26 were dismissed voluntarily by the defendants, typically after all but 1 defendant was severed from the case or when protective orders were issued (Exhibit F, all voluntarily dismissed cases); and 1 case, to the plaintiff's knowledge, is still open and simply stagnating.

55. On July 1, 2013, Mr. Cable voluntarily dismissed an

entire case, without prejudice after more than a year had passed. In this case he was allowed early discovery, no defendants were severed, permitted 120 days of additional time to serve and identify defendants and still dismissed all defendants having obtained no settlements or serving any of them (Exhibit G).

56. On 3/28/2013, Mr. Cable voluntarily dismissed an entire case after only receiving one settlement, again having served no defendants. (Exhibit H)

57. Plaintiff is unaware of any legal malpractice lawsuits against any of the CEG's partnered attorneys. In fact, to the plaintiff's knowledge, no client who used the CEG's services has ever brought a legal malpractice lawsuit against any of the attorneys whom never served a single defendant nor pursued litigation and have had cases dismissed for not complying with orders or for failure to prosecute.

**iii. Plaintiff and other Subscribers were the Defendants'  
Intended Targets of Their Lawsuits**

58. The court almost unanimously agrees that "The strategy implemented by Mr. Cable has been to file mass copyright infringement suits against Doe Defendants known only by their IP addresses, **alleging that a person associated with**

**each IP address illegally downloaded and/or distributed a pornographic film** using a protocol known as BitTorrent.

Plaintiffs then move for expedited discovery of the information identifying the defendants by means of Rule 45 subpoenas served on the relevant Internet Service Provider ("ISP"). Armed with that information, plaintiffs send settlement demand letters to the **subscribers** notifying them that **they** will be named in the suit if they do not pay a specified amount."<sup>1</sup> (Emphasis added). In this, the court has found that the people identified by their IP address are in fact the defendants and/or at the very least the intended targets of the defendants' activities.

59. The plaintiff notes five judges who found or agreed that because the complaints sought relief against infringers and that the IP addresses only identify subscribers, the people identified by their IP's were actually non-subscriber witnesses.

60. The plaintiff also noticed that those same five judges also found or agreed that the defendants didn't have any intention on identifying any supposed infringers. Judge Sorokin found: "Ordinarily, a Plaintiff suing a John Doe

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<sup>1</sup> Judge Saylor saying almost the exact same thing: "The strategy implemented by these plaintiffs has been to file mass copyright infringement lawsuits against "Doe" defendants known only by their IP addresses, alleging that a person associated with each IP address illegally reproduced a pornographic film using BitTorrent file sharing technology as part of single "swarm." Plaintiffs then move for expedited discovery of the information identifying the defendants by means of Rule 45 subpoenas served on the relevant Internet Service Providers ("ISPs")."



Defendant would seek narrow discovery ex parte in order to identify the Doe Defendant for purposes of filing a motion to amend the Complaint to name the Doe, followed by service of the Complaint. The Plaintiffs in these cases evidence no interest in such a pursuit. They have not proposed a discovery plan aimed at identifying the infringers they have sued. Rather, the Plaintiffs request that the Court order disclosure of the third-party subscribers' names so that the Plaintiffs might settle or dismiss their cases on an informal basis...Not only have Plaintiffs failed to articulate a discovery plan that would lead to identifying the infringers they have sued, but the Plaintiffs cannot even articulate the specific information they need or require in order to identify the infringers (or, to determine that such identification is not reasonably possible)". Judge Boal also found: "In addition, the Court does not believe that the plaintiffs in these cases have any intention to actually determine the identity of the alleged infringers in order to litigate these cases. See Discount Video Center, Inc., 2012 WL 5464175 at \*3. Rather, the plaintiffs appear to be using the federal courts only to obtain identifying information for the subscribers and then attempting to negotiate a quick settlement."

61. This court also found: "The Court has repeatedly given

the Plaintiffs ample opportunity to proceed properly with their cases. Since the Plaintiffs filed these cases, they have repeatedly failed to advance a plan compliant with the straightforward rules of procedure for limited ex parte discovery in order to learn the identities of the persons they have sued." This finding consistent with the 12 cases that were dismissed by the court due to a failure to prosecute or non-compliance with the court's orders

62. This court also found: "it indeed appears that plaintiff and its counsel have no intention of ever actually naming any defendants and litigating these cases. Chief Magistrate Judge Sorokin observed that Mr. Cable repeatedly said to him and other judges in this District that he intends to litigate the claims he has brought yet he has never served a complaint upon a single individual defendant despite having sued well in excess of one thousand Doe Defendants in this District." this finding is consistent with the 26 cases that were **voluntarily** dismissed with no cause shown therefore.

63. Plaintiff asks the court to take note that now that the defendants are being sued for their wrongdoing the plaintiff is suddenly a non-party with no standing to sue, however the court should also note that this didn't stop the defendants from extorting money from non-parties.

Exhibit I is a compilation of all the settlements the defendants (any of them) have obtained from subscribers after the court found that Mr. Cable was wrongfully suing subscribers of internet services rather than infringers.

64. Plaintiff also asks the court to note that even though the court found that the complaint sought relief from infringers, the defendants specifically alleged that the plaintiff and other doe defendants were in fact the defendants saying: "The true names of Defendants are unknown to the Plaintiff at this time. **Each Defendant** is known to Plaintiff only by the **Internet Protocol ("IP") address assigned to that Defendant** by his, her or its Internet Service Provider on the date and at the time at which the infringing activity of each Defendant was observed." (Emphasis added) Page 1, paragraph 7, of defendants' complaint (Exhibit J).

65. Interestingly, the findings of Judge Sorokin and Judge Boal do not conflict with the findings of other judges, that the defendants sued the people identified by IP addresses. This is so because, although the court found that IP addresses only identify subscribers, the court did also find that the defendants had no intention of pursuing or identifying infringers. This creates a logical problem; if the subscribers weren't being sued and if they were also

not suing infringers or attempting uncover who the infringers were, then who were the defendants in their lawsuits? This question is answered simply by looking at who the defendants acquiring settlements from after Judge Sorokin issued his August 10 finding (IP addresses only identify subscribers). Judge Boal had found: "Armed with that [subpoenaed] information, plaintiffs send settlement demand letters to the **subscribers** notifying them that **they** will be named in the suit if they do not pay a specified amount". As shown court has already determined or at the very least recognized that the defendants' true targets were the subscribers and **not** infringers.

66. In case 1:12-cv-10817, Mr. Cable requested a default and default judgment of Mbiti Pierre. Mr. Cable never sought to substitute Mbiti Pierre's name for Doe 1. Judge Stearns noted this and how the default was improper as a result and vacated the default, however Judge Stearns did give Mr. Cable an opportunity amend his complaint to name Mbiti Pierre as a defendant provided that Mr. Cable explain his basis under Rule 11 for his belief that Mbiti Pierre was appropriately named as an infringer. Mr. Cable refused and the case was dismissed with prejudice. The fact that Mr. Cable refused to explain the basis of his belief that Mr. Pierre was the proper defendant is both troubling and

revealing in so much that Mr. Cable **was** knowingly targeting subscribers. (Exhibit K)

67. In Case 1:12-cv-10945, Brent. J Nelson submitted a declaration in the form of a motion to dismiss (Exhibit L), in which Mr. Nelson informs the court that he, nor anyone else in his household, owns a computer. He provides a specific reason as to why his wireless internet is and remains unprotected. In lines 15 - 19, Mr. Nelson, a subscriber declares that he contacted Mr. Cable and explained his situation, Mr. Cable told him to "just send him \$3,500.00 in exchange for dropping the lawsuit". Mr. Nelson refused and notes that he felt the whole thing was a scam and that "Mr. Cable basically acknowledged that I wouldn't be able to do the things he has accused me of without a computer, but he refused to drop the lawsuit without me providing some proof". Mr. Nelson continues by stating "Obviously I can't prove a negative, and as I said before I don't see how he could ever prove that I could have done this without a computer". Here is a victim's testimony which reveals that even though Mr. Cable knew he would not be able to prove his allegations against Mr. Nelson and yet he refused to dismiss **subscriber** Mr. Nelson as a defendant; unless of course Mr. Nelson paid the \$3,500, then dismissal would have been acceptable. Again,

it is revealed that the true targets of the defendants' (and like parties) scheme is the subscribers.

68. On November 7, 2012, the court found that the defendants had no interest in seeking any information that would lead to the identification of supposed infringers nor did were they interested in seeking dispositions from subscribers that would lead to identifying supposed infringers, the court found the defendants' proposal "- i.e., that the Court permit the Plaintiffs to subpoena the names of the subscribers and that the Court then leave it to the Plaintiffs to figure out the rest pursuant to informal communications - is unacceptable." (Exhibit M). Here the court even noted that the defendants' only interest is in using the court to identify subscribers and then leave them to deal with their victims as they wish. When viewed along all the other evidence it is abundantly clear that the defendants only sought to harass and scare their victims into paying settlements.

69. The defendants only used the court as a cheap alternative to hiring a private investigator to identify all the subscribers and as a weapon of fear by using the case numbers attached to each claim to scare people into thinking that the defendants would actually sue them regardless of facts if they didn't pay up. The defendants'

conduct reveals that the defendants did not want the court involved with the lawsuits beyond allowing discovery against subscribers and to keep lawsuits open long enough for the defendants to profit from their scam.

70. Plaintiff believes that the settlements acquired each contain a clause in which the victim must agree that they were liable to the opposing party. Many courts have expressed very real concerns over the defendants and other similar groups coercing settlements out of innocent subscribers and plaintiff believes that such a clause would not be enough to satisfy the courts concerns as an innocent party might accept liability only to make the issue go away without causing them further harm. We saw this exact situation during the Salem witch trials, in which parties who denied allegations of witchcraft were tortured and executed while parties who confessed were allowed to live, excommunicated and striped of their property. It is well known that coercion, extortion, or similar threats do not yield true confessions and are very often considered invalid in American law. Plaintiff believes that the defendants tricked the marks that paid them into such an agreement by lying to each of them, claiming they were liable even though the defendants knew that no copyrights were infringed upon and that the CEG distributed the work

themselves.

71. Also, since the CEG was found uploading (seeding) the works they were monitoring themselves, there exists a very real possibility that NSI knew about this and agreed to it, meaning that, again, copyright infringement did not actually occur. Plaintiff believes that Mr. Cable is aware this fact and has personal knowledge of the CEG's practices. It is very likely that all three defendants knew the file was being uploaded, which is why they were never interested in identifying infringers; because there were no infringers to identify.

72. Plaintiff finds it both curious and odd how, to the best of his knowledge, that not a single CEG attorney has ever had a legal malpractice lawsuit filed against them, this, coupled with the irrefutable fact that the CEG was advertising the use of copyrights to obtain "settlements" before any copying complained of occurred. These facts imply, both, that NSI and the other defendants knew they had no legal standing to sue for copyright infringement and that the real targets of their scheme were the subscribers since the supposed infringers simply do not exist.



**iv. Not Naming Doe Defendants was the Defendants' Leverage in their Extortion scheme**

73. This court has particularly noted on multiple occasions that the defendants did not name any one in their lawsuits as a defendant. This court has also noted that the defendants didn't have any real intention of doing so anyway.

74. Not naming a person in a lawsuit does not mean that they have not sued or targeted said person. There are many instances in the 40 lawsuits filed by the defendants in which they have extracted settlements from an unnamed party. The key factor here is that although each party wasn't named they were in fact identified by an IP address, wherefore the defendants did sue/target the people who remained unnamed but were identified by their IP address.

75. For extortion to work, the extorting party must have some form of leverage over their victim in order to convince their victim it is better to pay than face consequences. In this instance, the defendants used being named in a lawsuit for what some would consider piracy and theft of pornography, both of which can be detrimental to a reputation or even social or economic opportunities. If the defendants named each person they received information from, they would lose any leverage they had in convincing a

person to pay thousands of dollars.

76. If the defendants were to name Doe defendants in their lawsuits, rather than convincing Does to pay money to make the issue disappear they would have instead evoked the wrath of their victims and not fear. The Identified does would have more to gain from hiring attorneys and/or doing their own research, filing motions to dismiss and seeking discovery, and blasting holes in their case so large that one could sail an oil tanker straight through. However the defendants prevented this from happening simply never naming any defendant.

77. By putting identifying himself as Doe 64, using his real name, and having provided on motions and on each envelope his address to where he may be served, the plaintiff effectively removed the defendants only leverage against him. The courts, defendants and victims are all too aware of the embarrassing nature of the film used in their scheme; mere association with it is enough to drive some people to settle. The threat of lawsuit is only a part of the extortion attempt as merely being sued for downloading a movie isn't nearly as damaging as being accused of downloading pornography. By facing such public humiliation rather than waiting for the defendant to begin bombarding the plaintiff with demand letters, which this court has

already determined would be the case, the plaintiff removed the leverage the defendants had against him and thus thwarted their attempted extortion of the plaintiff.

78. During litigation of the underlying matter the defendants represented the people identified by IP addresses as defendants both unto this court and before Judge Saylor. This fact is reflected in Judge Saylor's order dismissing the case and by the defendant's acquisition of settlements from people identified only by their IP address. The defendants chose not to name the plaintiff as a defendant, presumably because the plaintiff was presenting facts and arguments that were dangerous to their scheme, their choice in not naming the plaintiff was not because doing such was improper, after all they continued extracting settlements from supposed "non-parties", but because naming the plaintiff would mean opening themselves up to discovery and having the merits of their case tested.

79. Plaintiff believes they especially did not want to name the plaintiff and believed the arguments and evidence presented was dangerous to their scheme, which would certainly explain why they refused to show up to the hearing for the motion making such arguments and presenting such facts.

80. In case 1:12-cv-10817, Mr. Cable requested a default judgment against a Mr. Pierre (mentioned earlier, still relevant), the default was vacated and the court gave Mr. Cable an opportunity to file an amended complaint naming Mr. Pierre as a defendant but only if Mr. Cable could provide an explanation under Rule 11 as to why he believed Mr. Pierre was an infringer; Mr. Cable simply refused to respond to the court's generous offer.

**iv. The CEG is Seeding the File NSI Complained About**

81. Recently, the plaintiff contacted a private investigator who allegedly had evidence that the CEG was seeding (distributing) the works its clients have sued people over.

82. The private investigator identified two IP addresses as the CEG, they are: 96.127.156.98 and 174.36.1.93.

83. The private investigator, isolating the specific IP addresses believed to be the CEG, downloaded over 85% if not a complete copy of the file the defendants sued the plaintiff over.

84. Plaintiff believes that both Mr. Cable and NSI is aware of the CEG distributing the files of its clients. Plaintiff believes that NSI even agreed to allow the CEG to distribute its work, in case no torrent existed, in order

to produce lawsuits as part of their scam.

85. Plaintiff believes this is a core reason why the defendants never sought to name defendants or pursue litigation; to avoid discovery which would reveal that the CEG was seeding the very files they used to file the 40 lawsuits filed in this state and the many, many more filed in other states.

86. Plaintiff believes this is the reason the defendants never sought to identify actual infringers. Since NSI distributed or allowed the distribution of their works, in order to profit from the lawsuit factory scheme, there are no infringers to speak of; Plaintiff believes that both NSI and Mr. Cable are aware of this.

87. Plaintiff believes that it is possible that all other torrent of this file that have different hash tags exist as a result of the CEG seeding its client's works.

88. Plaintiff believes that NSI has actually caused more people to copy and distribute their work by having it secretly seeded by the CEG. In other words, by using the CEG to act as a lawsuit/settlement factory for them, they are responsible for each copy complained of and the potentially many, many more they have not complained of.

89. During the course of enforcing copyrights, it helps if you are not also responsible for any copying and

distribution of your own works. Plaintiff believes that all three defendants were fully aware that they lacked any standing to file a lawsuit as nobody committed any wrong doing against them.

**v. Mr. Cable and the CEG are Running a  
New Copyright Trolling Scam**

90. In a March article by torrentlawyer (Exhibit N), Marvin Cable is described to have been engaging in another copyright trolling scheme, this time only threatening to file lawsuits against victims if they don't pay around \$1,750; which is about half the price of the settlements this court has seen.

91. Mr. Cable and the CEG, after having many of their cases dismissed unfavorably and dropping lawsuits altogether, have begun another scheme sending demand letters to subscribers only this time without the court's oversight or protective orders.

92. Plaintiff believes that, because the court wouldn't assist the defendants in their scam nor would the court allow them to use the court resources as part of their scam, the defendants are now attempting to use this court to continue threatening and scaring their victims by way of threatening the filing of litigation.

93. Plaintiff is unaware of any lawsuits that have been filed by Mr. Cable after 2012.

94. Plaintiff was at the court on August 5, 2013, and performed a docket search for Marvin Cable. Plaintiff did not find any lawsuits filed after 2012 by Mr. Cable.

95. Plaintiff believes that Mr. Cable is now running the CEG's scam outside of the courts to avoid protective orders reasonably being placed on subscribers so that he may threaten and bully them with impunity.

96. Plaintiff believes that Mr. Cable is using his station as an attorney to give the scheme an appearance of legitimacy for the purpose of intimidating marks into paying him and the CEG.

## **VII. Actionable Causes of Harm**

### **A. NSI**

#### **1. Libel/Defamation of Character**

97. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 96 as fully set forth herein.

98. On May 26, 2012, NSI filed a lawsuit against the plaintiff that falsely alleged that the plaintiff violated NSI's copyrights.

99. NSI specifically identified the plaintiff by his IP

address and claimed that the plaintiff was the appropriate defendant: "The true names of Defendants are unknown to the Plaintiff at this time. **Each Defendant** is known to Plaintiff only by the **Internet Protocol ("IP") address assigned to that Defendant** by his, her or its Internet Service Provider on the date and at the time at which the infringing activity of each Defendant was observed." (Emphasis added) Page 1, paragraph 7, of defendants' complaint. Plaintiff is informed, believes and alleges that NSI filed their claim against the plaintiff or was specifically targeting the plaintiff.

100. NSI claimed that the plaintiff violated their rights by downloading a copy of their pornographic work via bittorrent without their consent. Plaintiff believes and alleges that NSI knew these same claims were false because NSI willfully knowingly used their purportedly copyrighted work to entrap victims for the purpose of filing false claims to scare their victims into paying settlements.

101. Plaintiff is informed that because NSI had personal knowledge of the transaction or copying and took no action to prevent said copying at the time of the copying, NSI allowed the transaction to take place and, as a matter of law, had no legal right to sue or make allegations of rights violations or illegal activity against the plaintiff



or similarly stipulated victims.

102. Plaintiff is informed, believes, and alleges that NSI asserted or allowed the assertion of such false claims in their name for the purpose of personally obtaining undue profits by way of defrauding, scaring, and humiliating its victims, such as the plaintiff.

103. Plaintiff believes that the NSI allowed, consented, or otherwise participated in the distribution of their works for the purpose of publishing false and defamatory claims against unnamed persons with intent to extort money from them.

104. Plaintiff believes that NSI is responsible for the distribution and copying they complained of as they consented to, allowed, or were reasonably aware of the CEG's practices.

105. Plaintiff believes that NSI, Mr. Cable, and the CEG all believe their defamation to be worth \$3,500 as this is the amount demanded by the defendants in order to make the defamatory claims disappear. By setting a value to their defamation, plaintiff believes that the defendants have established the minimum amount recoverable as damages for defamation.

## **2. Abuse of Process**

106. Plaintiff repeats, alleges, and incorporates facts and

allegations in paragraphs 12 - 105 as fully set forth herein.

107. Abuse of Process is defined as: the use of legal process by illegal, malicious, or perverted means. Examples include serving (officially giving) a complaint to someone when it has not actually been filed, just to intimidate an enemy, filing a false declaration of service (filing a paper untruthfully stating a lie that someone has officially given a notice to another person, filing a lawsuit which has no basis at law, but is intended to get information, force payment through fear of legal entanglement or gain an unfair or illegal advantage. Some people think they are clever by abusing the process this way. A few unscrupulous lawyers do so intentionally and can be subject to discipline and punishment. Sometimes a lawyer will abuse the process accidentally; an honest one will promptly correct the error and apologize.<sup>2</sup>

108. Plaintiff is informed and believes that NSI 1) filed a lawsuit which has no basis at law that was 2) intended to force payment through the fear of legal entanglement.

109. Although the plaintiff was never served or named as a defendant, this court has already found that the defendants had no real intention of serving or naming anyone as

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<sup>2</sup> Dictionary.law.com

defendants in their lawsuit scheme.

110. NSI identified the plaintiff as a defendant in their complaint, saying: "The true names of Defendants are unknown to the Plaintiff at this time. **Each Defendant is known to Plaintiff only by the Internet Protocol ("IP") address assigned to that Defendant by his, her or its Internet Service Provider on the date and at the time at which the infringing activity of each Defendant was observed.**" (Emphasis added) Page 1, paragraph 7, of defendants' complaint. Comcast, after receiving the defendants' subpoena, informed the plaintiff that the defendants identified him as Doe 64 in lawsuit 1:12-cv-10944.

111. On July 30, 2012, Judge Sorokin found that an IP address will not positively identify infringers, it only identifies subscribers. Judge Sorokin also found that telling subscribers that they have been sued when the defendants were, supposedly, seeking relief from infringers was inappropriate. Judge Sorokin quashed all subpoenas before him and gave Mr. Cable an opportunity to correct the matter since subscribers were more likely to be non-party witnesses than infringers. At the time, Judge Sorokin's ruling affected three lawsuits. Defendants, being aware of this ruling, made no such effort to correct this matter

before Judge Saylor and instead continued to pursue settlements from subscribers in all other lawsuits.

112. Plaintiff is informed and believes that NSI never sought to identify any infringers because no one infringed their copyrights.

113. Plaintiff is informed and believes that NSI used false allegations of infringement to mask the fact that subscribers were the only intended targets.

114. Plaintiff is informed and believes that NSI is and was unable to show the court why under Rule 11 they believed anyone they sought information from was an infringer.

115. On May 26, 2012, NSI filed a lawsuit asserting false allegations against the plaintiff for the purpose of deceiving the plaintiff into paying a settlement of \$3,500.

116. Plaintiff is informed, believes, and alleges that NSI's purpose for filing a lawsuit was solely to give their threat "teeth".

117. Plaintiff is informed, believes, and alleges that NSI filed the lawsuit to deliberately create the illusion that they had legal standing to pursue the subscribers for copyright infringement.

118. Plaintiff believes and alleges that NSI filed their lawsuits with full knowledge that no one infringed on their copyrights.

119. Plaintiff is informed, believes, and alleges that NSI filed the lawsuit to deliberately induce fear, stress, emotional duress, and psychological duress in order to procure "settlements" from their victims.

120. Plaintiff is informed, believes, and alleges that NSI improperly used the courts and the legal system in general as a sort of weapon to abuse and harass the plaintiff and similarly stipulated victims.

121. Plaintiff is informed, believes, and alleges that NSI had no intention of following through with their lawsuit for reasons such as avoiding discovery because NSI knew that their claims were false and without merit.

122. Plaintiff is informed, believes, and alleges that NSI had no intention of following through with their lawsuit for reasons such as avoiding discovery to avoid exposure for partaking in a "what is essentially an extortion scheme".

123. Plaintiff believes, and alleges that NSI did not want to pursue litigation in order to avoid discovery that would reveal their consent, permission, or otherwise participation in the distribution of the work they filed lawsuits over.

124. Plaintiff is currently aware of three lawsuits filed by NSI: one dismissed after being severed and the court noted

that a settlement with subscriber Doe 1 had been reached months prior, another dismissed voluntarily after all Does except Doe 1 were severed, and another dismissed by the court when NSI failed to respond to an order to show cause as to why the last defendant should not be dismissed.

125. Plaintiff is informed and believes that, to date, NSI has filed seven nearly identical lawsuits across the country and has not once ever named a defendant or having once served a defendant. In each lawsuit, NSI only ever sought to obtain settlements from subscribers. This is a fact that cannot be challenged as it is a matter of court record.

126. Plaintiff believes that because NSI allowed their work to be distributed for the purpose of copying so that they could file lawsuits against those they allowed to have access their work via torrents demonstrates very clear bad faith since NSI lacked any standing to file lawsuits in the first place.

127. Plaintiff believes the defendants will assert that the plaintiff was never a target of the defendants' scheme; however this is directly opposed by the settlements defendants have acquired from other similarly stipulated "non-parties".

128. In summary: Plaintiff is informed, believes, and

alleges: 1) that the plaintiff was identified as a defendant by NSI or was an intended target of the defendants' scheme; 2) that NSI initiated bad faith litigation against the plaintiff; 3) that NSI's intent was to intimidate the plaintiff into paying a settlement; 4) that NSI never intended to pursue the litigation it filed; 5) that NSI never intended to pursue infringers; 6) that NSI had no intention of naming anyone as a defendant.

**129.** Plaintiff is informed and believes that the bare facts alone are sufficient in establishing and proving abuse of process by NSI.

### **3. Malicious Prosecution**

**130.** Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 129 as fully set forth herein.

**131.** Plaintiff is informed and believes that to maintain and To win a suit for malicious prosecution, the plaintiff must prove four elements: (1) that the original case was terminated in favor of the plaintiff, (2) that the defendant played an active role in the original case, (3) that the defendant did not have probable cause or reasonable grounds to support the original case, and (4) that the defendant initiated or continued the initial case with an improper purpose.

132. Plaintiff is informed, believes, and alleges that based on his IP address he was identified by the defendants as Doe 64.

133. Defendants' complaint claimed that "Each **Defendant** is known to Plaintiff only by the **Internet Protocol ("IP") address assigned to that Defendant...**" (Emphasis added). Whereby the plaintiff, identified as Doe 64, was the defendant regardless of subscriber/infringer status. Defendants made no effort to change or other wise correct this in most of their lawsuits. This fact is irrefutable and a matter of known public record.

134. Defendants have pursued defaults against known subscribers without being able to explain under Rule 11 why they believed the subscriber was an infringer. This fact is irrefutable and a matter of known public record.

135. In Case 1:12-cv-10945, Brent. J Nelson filed a motion to dismiss which contended that he was not liable, that Mr. Cable demanded \$3,500 to drop the lawsuit, that Mr. Cable acknowledged that Mr. Nelson (the subscriber) could not have infringed on his clients rights, and that Mr. Cable refused to dismiss the allegations against him regardless of the fact. These claims were never challenged by Mr. Cable. This is irrefutable and a matter of known public record.



136. It is irrefutable as a matter of known public record that the plaintiff was the defendants intended target, that the plaintiff was identified as the defendant Doe 64 in the underlying lawsuit, and that the defendants had no intention of identifying true infringers or naming defendants.

137. On May 26, 2012, the defendants initiated litigation against the plaintiff, identifying him only by his IP address as Doe 64. Plaintiff clarifies that the IP address is his because he is the one only subscriber of shared internet in his household.

138. Plaintiff appeared before the court on September 13 for a hearing on motions filed by the plaintiff, the defendants failed to appear. Plaintiff is informed and believes having to appear for a motion hearing satisfies the minimal requirement for qualifying the case as prosecution. Again, the plaintiff appeared before the court, the defendants refused to do so.

139. Plaintiff is informed, believes, and alleges that because NSI's copyrights were not infringed by way of NSI distributing, allowing the distribution of, or otherwise allowing or enabling the transactions of copying and distributing of their works the defendants had no reasonable grounds to support their case.

140. Plaintiff is informed, believes, and alleges that the lawsuit against the plaintiff was without probable cause due to NSI's personal knowledge that using the CEG's monetization service would enable or otherwise allow people to copy or distribute their work. NSI should have reasonably been aware of this since they chose to "Establish a new revenue source" that involved secretly watching people copy their works via known uploaded torrents that were uploaded by the CEG.

141. Plaintiff is informed, believes, and alleges that each defendant played an active role in the underlying case. NSI played the role of the "plaintiff", allowing their name and their works to be used in the creation of the underlying original lawsuit.

142. Plaintiff is informed and believes that the original case was dismissed in his favor. Judge Saylor's order: "the claims against all of the "Doe" defendants are severed and all claims, except those against "Doe #1," are hereby DISMISSED without prejudice." Since the claims against the plaintiff were dismissed by this court, the lawsuit was terminated in favor of the plaintiff.

143. Plaintiff is informed and believes that on December 12, 2012, Judge Saylor issued an order terminating the original case altogether (Exhibit O). The case was terminated and

this is irrefutable and a matter of public record.

144. Plaintiff was never held liable to the defendant, wherefore, the case was terminated in favor of the plaintiff.

145. Defendants are yet to file any action against the plaintiff, or any other dismissed Doe for that matter, nearly a year after the plaintiff was dismissed. Plaintiff is informed and believes that the defendants have abandoned their claims against the plaintiff.

146. Plaintiff believes that the bare facts provided herein are sufficient in establishing and proving malicious prosecution by defendant NSI.

### **3. Attempted Extortion**

147. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 146 as fully set forth herein.

148. Plaintiff is informed, believes, and alleges that NSI conspired to and followed through with, knowingly filing a frivolous lawsuit, with no intention of pursuing litigation, for the purpose of extracting unjust and undue settlements from the plaintiff and similarly stipulated victims.

149. Plaintiff believes and alleges that NSI took the

initial steps of their extortion scheme by creating and filing a frivolous lawsuit and deceptively requesting discovery, but were blocked by plaintiff's actions of filing a motion to quash/dismiss and by filing a counter claim.

150. Plaintiff is informed, believes, and alleges that NSI has profited from extorting money from Doe defendants and intended to and attempted to do the same to the plaintiff.

151. Plaintiff is informed, believes, and alleges that NSI used the embarrassing nature of pornography and its victims potential sexual interests to humiliate its victims into settlements by using the threat of public exposure and scrutiny via a public lawsuit. Plaintiff is informed, believes and alleges that NSI used the threat of a potentially costly lawsuit to scare the plaintiff and its other victims into paying "settlements"

152. Plaintiff is informed, believes, and alleges that NSI willfully and knowingly acted in ways or partook in actions that were intended to cause emotional duress and humiliation, with reckless disregard to the plaintiff and their other victims, for the purpose of coercing them to pay money to avoid public exposure.

153. Plaintiff believes that by representing himself in the underlying matter, he removed NSI's leverage over him and

diminishing any interest NSI had in pursuing or harassing the plaintiff.

154. Plaintiff believes and alleges that by representing himself under his true name and engaging the defendants in litigation, the defendants lost any leverage they had over the plaintiff and any interest in pursuing the plaintiff as the plaintiff clearly showed them a willingness to take the fight to them during the course of the original case.

#### **4. Racketeering**

155. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 154 as fully set forth herein.

156. Plaintiff is informed and believes that under current racketeering laws the filing of fraudulent and malicious lawsuits in order to scare people into paying "settlements" is an act of racketeering.

157. Plaintiff is informed and believes that racketeering is illegal under 18 USC § 1961 et. Seq.

158. Plaintiff is informed, believes, and alleges that NSI willfully and knowingly, under the guidance of capable legal council, filed a fraudulent lawsuit with malicious intent to scare people, such as the plaintiff, into paying them money to avoid being sued.

159. Plaintiff believes and alleges that the NSI willfully and knowingly, having allowed the CEG to distribute their work in the form of a torrent, filed a lawsuit with containing false allegations for the purpose of extorting settlements from their victims.

160. Plaintiff is informed, believes and alleges that The CEG's monetization service is designed to provide a copyright holder with a means to avoid civil or criminal liability for a wrongful act by intentionally putting themselves in a position where they will be unaware of facts that would render him liable. Plaintiff is informed, believes, and alleges that the CEG does this in an attempt to create the technical circumstances required to have a legitimate copyright infringement claim without the need of a legitimate copyright infringement claim so they can create fraudulent lawsuits that their partnered attorneys use to attempt to extort money from their victims, such as the plaintiff.

161. Plaintiff has recently been made aware of the fact that his litigation expenses are not able to be considered damages under RICO because, and only because, litigation was not the intention of the action filed by the defendants. However because the defendants' intentional infliction of harm against the plaintiff, plaintiff

believes he may be entitled to injunctive relief.

162. Plaintiff believes and alleges that the settlements victims agreed to contain a clause in which they agree that they are liable to the defendants. Plaintiff believes this is done purposefully to make it more difficult for paying victims to bring RICO charges or allegations once they realize what actually happened. Plaintiff requests that the court allow the RICO allegations to proceed on behalf of the other Does. Plaintiff has already set forth allegations sufficient for RICO and has requested a form of relief that would satisfy the need for hundreds of Does to file separate RICO claims against the defendants.

#### **5. Copyright Trolling (for-profit Copyright Abuse)**

163. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 162 as fully set forth herein.

164. Copyright trolling is a form of copyright abuse in which the copyright holder seeks to use their copyright of a work to obtain personal profits, usually via phony lawsuits. The only way to turn copyright ownership into something profitable is to knowingly create or allow transactions that cause a copyrighted work to be copied and/or to willfully fail or refuse to prevent the copying

of said work to create a circumstance that creates the illusion of copyright infringement.

165. Copyright trolling as a cause for harm is directed at the specific intent of a copyright holder to use their copyrights to victimize others for personal gains.

166. Plaintiff is informed, believes, and alleges that NSI knowingly used a service that enabled or allowed people to copy their work for the purpose of unjustly suing people.

167. Plaintiff is informed, believes, and alleges that NSI knowingly used a service that would distribute and cause to be distributed and copied their work for the purpose of unjustly suing people.

168. Plaintiff is informed, believes, and alleges that NSI has used this service at least four times in the past (3:10-cv-05863, 5:10-cv-05864, 8:12-cv-01291, and 3:2011-cv-02770), whereby plaintiff is informed, believes, and alleges that NSI had personal knowledge that the use of the CEG's monetization service would result in people copying and distributing the work they had the CEG monitor.

169. Plaintiff is informed, believes, and alleges that NSI used the CEG's monetization service to profit via lawsuit from copying, which had not yet happened, of a torrent file that may or may not have existed at the time of contracting the CEG. Plaintiff is informed, believes, and alleges that



NSI knew prior to using the service that the only way to profit from its use was to enable or otherwise allow the general public to copy and/or distribute their work.

170. Plaintiff is informed, believes, and alleges that NSI willingly used a service that they personally knew would not prevent any copying or distribution of their work.

171. Plaintiff is informed, believes, and alleges that NSI willingly used a service that they personally knew would distribute their work to be copied and distributed further via torrent.

172. Plaintiff is informed, believes, and alleges that NSI willfully and knowingly abused its' supposed copyright and copyright law for the purpose of harassing, extorting money from, and to otherwise cause general harm to the plaintiff and similarly stipulated victims.

173. Plaintiff believes, under Rule 11, that the allegation of Copyright Trolling is warranted by a non-frivolous argument for the creation of new doctrine. Currently, the only countermeasures to false copyright infringement claims are the copyright misuse doctrine and title 17, section 512(f) (DMCA misrepresentations). However the original lawsuit does not arise out of the DMCA the plaintiff is unable to assert misrepresentation allegations nor did the original lawsuit never reached and was never intended to

reach the point of litigation at which the affirmative defense of copyright misuse may be raised.

174. As of current copyright law is without any countermeasures that can address copyright settlement/litigation factories. This is because lawsuits never reach a point of litigation to which copyright misuse can be raised as an affirmative defense, particularly since the parties bringing the suit never intend to actually follow through with the suit or name anyone; conveniently it is this that also enables parties like the defendants to circumvent copyright misuse claims. Also, there currently is no countermeasure to the abuse or misuse of statutory damages, which are a big factor into what scares people into paying settlements.

175. A copyright trolling doctrine will create a countermeasure that specifically combats these illegitimate settlement/lawsuit factories first by making it no longer worth while to make empty threats using the statutory damages to provide a fear factor and next by assuring that copyright infringement lawsuit filed will be pursued.

## **6. Intentional Infliction of Harm**

176. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 175 as fully set forth

herein.

177. Plaintiff is informed, believes, and alleges that NSI file lawsuits against Does for the purpose of causing undue stress, emotional harm, and psychological harm to place Does under duress so they could more easily extort settlements from the defendants.

178. Plaintiff is informed, believes, and alleges that NSI specifically used the embarrassing nature of their works to cause emotional stress, feelings of embarrassment, and undue stress to place Does under duress so they could more easily extort settlements.

179. Plaintiff is informed, believes, and alleges that NSI intentionally inflicted emotional and psychological harm on all Does, including the plaintiff, with reckless disregard to any conditions anyone was suffering, in order to more easily pressure them into paying settlements.

180. Plaintiff suffered emotional and psychological pains as well as undue stress and anxiety as a result of the defendants' intentional infliction of harm upon him.

#### **7. Violations of A.M.G.L. 93A: Unfair Practices**

181. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 180 as fully set forth herein.

182. Plaintiff is informed, believes, and alleges that A.M.G.L. Chapter 93A protects him from unfair and deceptive business practices.

183. Plaintiff believes and alleges that at all relevant times defendants engaged in unfair and deceptive conduct within the meaning of Chapter 93A. Defendants filed and manufactured their lawsuit knowing that NSI's copyrights were not infringed; that they were targeting subscribers and not infringers; that they did not intend to actually litigate their cases.

184. Plaintiff is informed, believes, and alleges that the defendants filed their suit as part of the overall copyright scheme, with the ulterior motive of forcing "settlements" from plaintiff and other Does. The defendants then used their complaint as leverage against the plaintiff's and other does' ignorance as to their potential defenses.

185. Plaintiff is informed, believes, and alleges that using copyrights to "Establish a new revenue source" by way of filing phony lawsuits is an unfair and deceptive practice.

186. Plaintiff is informed, believes, and alleges that NSI used their copyrights to engage in a business practice that involves allowing the distribution of their work for the purpose of generating revenue by way of a copyright

infringement lawsuit scam that is directed at extorting settlements from unsuspecting subscribers under the guise of legitimate legal actions.

187. Plaintiff is informed, believes, and alleges The Defendants' unfair, unlawful, and deceptive practices occurred in the course of the Defendants' Copyright Scheme and the challenged practices directly caused actual damages and injury to plaintiff and other Does.

188. Plaintiff is informed, believes, and alleges that NSI willfully and knowingly and secretly allowed their works to be copied and distributed via torrent so that they and their co-conspirators could profit from a knew business model/practice that is formally recognized as copyright trolling.

189. Plaintiff is informed, believes, and alleges that each lawsuit that was filed is part of the overall copyright scheme. Plaintiff is also informed,, believes and alleges that the copyright scheme is a business practice and not a lawful petition for relief.

190. Plaintiff believes and alleges that he is entitled to treble damages resulting from the defendants unfair and deceptive practices.

**B. CEG**

**1. Inducement/barratry**

191. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 190 as fully set forth herein.

192. Plaintiff is informed, believes, and alleges that the CEG openly advertised (Exhibit P), and now more discretely advertises, settlement based litigation for "copyright infringement".

193. Plaintiff is informed, believes, and alleges that the CEG achieves its' settlement directed service by offering to its clients a service that secretly monitors any copying or specific torrent files without preventing said copying.

194. Plaintiff is informed, believes, and alleges that the CEG's clients are fully aware of the secret monitoring and that copying will not be prevented.

195. Plaintiff believes and alleges that the CEG's co-conspirators are aware of the CEG distributing the works via torrent.

196. Plaintiff is informed, believes, and alleges that the CEG's advertising of a settlement based "monetization" service directed at copying that has yet to happen that is also at no cost to the copyright holder induces and induced copyright holders to abuse their copyrights for personal

gains.

197. Plaintiff is informed, believes, and alleges that the CEG willfully and knowingly seeks to profit from the inducement of false litigation and a form copyright abuse known as copyright trolling.

198. Plaintiff is informed, believes, and alleges that the CEG willfully induces its' clients to engage in willful conduct that is intended induce fear, stress, emotional duress, and psychological duress to more easily procure settlements from its' clients' victims.

199. Plaintiff is informed, believes, and alleges that the CEG knows and knew that their service was not geared towards copyright protection, but rather a way to turn downloading torrents into something profitable (Exhibit Q).

200. Plaintiff is informed, believes, and alleges that the CEG never intends for any of its advertised settlement-driven "litigation" to reach fruition, meaning that they specifically desire to have each case avoid going to trial to avoid being exposed the fact that their advertised lawsuits are groundless.

201. Plaintiff believes, under Rule 11, that the allegation of barratry is warranted by a non-frivolous argument for the reversal of existing rulings that hold barratry as no longer a valid allegation. There may have been a time in

state law when barratry was no longer a valid claim, however companies like the CEG that advertise the use of phony lawsuits to generate profits have given cause to bring back barratry. And how does the CEG know the lawsuits it sells are phony? Simple, they are the ones uploading their client's works to begin with; they manufacture the lawsuit for their clients.

## **2. Civil Conspiracy**

202. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 201 as fully set forth herein.

203. Plaintiff is informed, believes, and alleges that the CEG directly profits from and helps to create the false and malicious lawsuits that are filed against their client's victims.

204. Plaintiff is informed, believes, and alleges that the CEG provided evidence and an "expert's" declaration while deliberately avoiding informing courts of their personal and fiscal interests in the lawsuits they sold to their clients.

205. Plaintiff is informed, believes, and alleges that the CEG secretly monitors torrents to entrap victims, such as the plaintiff, and aids in the extortion of money from



them, at the request of their clients.

206. Plaintiff believes and alleges that the CEG is the original seeder of the torrent files they monitor and that their clients file lawsuits over.

207. Plaintiff is informed, believes, and alleges that the CEG provides their clients with the legal counsel who files the frivolous and malicious lawsuits against its' clients' the plaintiff and other victims.

208. Plaintiff is informed, believes, and alleges that the CEG conspires with its clients to create the false lawsuits it uses to obtain profits for the CEG, their client, and their respective attorney partner.

209. Plaintiff is informed, believes and alleges that the CEG's primary objective is to act as a lawsuit/settlement factory by taking advantage of unwitting torrent users via distribution software that is intended to be difficult to track.

### **3. Copyright Trolling**

210. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 209 as fully set forth herein.

211. Although the CEG is not the copyright holder, by conspiring to and aiding in the act of copyright trolling,

the CEG has engaged in the act of copyright trolling vicariously.

212. Plaintiff is informed, believes, and alleges that the CEG's monetization service is the service that NSI knowingly used that enabled or allowed people to copy their clients' work for the purpose of suing people, such as the plaintiff.

213. Plaintiff is informed, believes, and alleges that the CEG enables copyright holders to abuse their copyrights by entering into contracts to monitor a specific torrent file of their clients' works for the purpose of suing people who haven't yet copied their clients' works.

214. Plaintiff believes and alleges that the CEG enables copyright holders to abuse their copyrights by uploading their clients' works as torrents for their clients and then tracking the very torrents they created.

215. Plaintiff believes and alleges that the CEG partakes and enables copyright trolling by advertising and providing a third-party, secret monitoring service that allows copyright holders to willfully turn a blind eye to any copying of their works for the purpose of suing unsuspecting victims using false claims of infringement.

216. Plaintiff is informed, believes, and alleges that the CEG knows it could not profit from any copying that is

prevented and thus has specifically designed their service to not prevent copying of works and to encourage copyright holders to also not prevent the copying of their works.

217. Plaintiff is informed, believes, and alleges that the CEG willfully and knowingly encouraged NSI to willfully and knowingly abuse their supposed copyrights and copyright law for the purpose of harassing, extorting money from, and to otherwise cause general harm to the plaintiff and similarly stipulated victims.

218. Plaintiff believes, under Rule 11, that the allegation of Copyright Trolling is warranted by a non-frivolous argument for the creation of new doctrine. Currently, the only countermeasures to false copyright infringement claims are the copyright misuse doctrine and title 17, section 512(f) (DMCA misrepresentations). However the original lawsuit does not arise out of the DMCA the plaintiff is unable to assert misrepresentation allegations nor did the original lawsuit ever reach and was never intended to reach the point of litigation at which the affirmative defense of copyright misuse may be raised. Furthermore, the DMCA and copyright misuse doctrines have no affect on parties who manufacture fake copyright infringement lawsuits or copyright lawsuit scams. Although they are not the content owner, they depend on the content owner's

consent to manufacture these lawsuits and scams that are aimed at using copyrights for unjust enrichment.

219. Plaintiff believes there is good cause to expand possible copyright trolling doctrine to also include companies and organizations that profit from, manufacture, or otherwise encourage the use of copyright scams for "clients". Plaintiff believes that if not for the CEG's advertised scam, this court would not have been flooded with 40 lawsuits that literally went no where, where no justice was sought. The CEG is directly responsible for the scam they created and used by NSI.

#### **4. Racketeering**

220. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 219 as fully set forth herein.

221. Plaintiff is informed and believes that under current racketeering laws the filing of fraudulent and malicious lawsuits in order to scare people into paying "settlements" is an act of racketeering.

222. Plaintiff is informed and believes that racketeering is illegal under 18 USC § 1961 et. Seq. Plaintiff is informed, believes, and alleges that CEG is the ringleader and mastermind behind this scheme.

223. Plaintiff believes and alleges that the CEG is the ringleader of the massive copyright lawsuit scam that has plagued this court.

224. Plaintiff is informed, believes and alleges that the CEG deliberately created a service, which includes providing capable legal counsel, to induce copyright holders to commit acts of extortion for the CEG's personal gain. Although it is the right holder who is essentially making the demands for money, the demands originate from the CEG's advertised scheme and are carried out by the CEG and their partnered attorneys.

225. Plaintiff believes and alleges that the CEG's scheme is designed to enable them to place any blame of illegal activity solely on the copyright holder. However, Plaintiff believes and alleges that NSI and other similar "clients" could not have carried out these scam lawsuits, against the plaintiff and other victims, if not for the services and attorneys the CEG knowingly provided.

226. Plaintiff has recently been made aware of the fact that his litigation expenses are not able to be considered damages under RICO because, and only because, litigation was not the intention of the action filed by the defendants. However because the defendants' intentional infliction of harm against the plaintiff, plaintiff

believes he may be entitled to injunctive relief.

227. Plaintiff believes and alleges that the settlements victims agreed to contain a clause in which they agree that they are liable to the defendants. Plaintiff believes this is done purposefully to make it more difficult for paying victims to bring RICO charges or allegations once they realize what actually happened. Plaintiff requests that the court allow the RICO allegations to proceed on behalf of the other Does. Plaintiff has already set forth allegations sufficient for RICO and has requested a form of relief that would satisfy the need for hundreds of Does to file separate RICO claims against the defendants.

#### **5. Fraudulent Misrepresentation**

228. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 227 as fully set forth herein.

229. Plaintiff believes and alleges that the CEG is not licensed to engage in private investigation as required by California state law.

230. Plaintiff is informed, believes, and alleges that the CEG deliberately misrepresented itself to the courts as an uninterested party by refusing to inform the courts of their personal interests.

231. Plaintiff believes and alleges that the CEG and John Nicolini are not trained in copyright law and deliberately misrepresented the copying complained of as "infringements" to further their personal goals and agenda in courts all across the country. Plaintiff believes that by willfully and knowingly misrepresenting each victim's, such as the plaintiff, transaction as an act of infringement, the CEG intended to aid their clients and partnered attorneys into deceiving the courts to allow them early discovery for their own personal gain.

232. Plaintiff believes that if the CEG had informed the court that they were uploading and monitoring their clients' works at the request of their clients the court would have thrown out all 40 of the lawsuits filed by Mr. Cable.

233. Plaintiff believes that if the CEG had represented themselves and their attorneys before the courts honestly, not a single unbiased judge would have allowed early discovery for the identities of the people the CEG was interested in having sued.

234. Plaintiff believes and alleges that the CEG willfully and deceptively misrepresented itself as an uninterested party to assist its' clients in harassing and extorting money from the plaintiff and their other victims.

235. Although typically fraudulent misrepresentation is used in contract law or law surrounding agreements, Plaintiff believes that there is good cause under Rule 11 to extend allegations of fraudulent misrepresentation the CEG in this action because, even though there was no agreement made between the CEG and the plaintiff, the plaintiff was still damaged as a result of the CEG's misrepresentation to the court.

**6. Violations of A.M.G.L. 93A Unfair Practices**

236. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 235 as fully set forth herein.

237. Plaintiff is informed, believes, and alleges that A.M.G.L. Chapter 93A protects him from unfair and deceptive business practices.

238. Plaintiff believes and alleges that at all relevant times defendants engaged in unfair and deceptive conduct within the meaning of Chapter 93A. Defendants filed and manufactured their lawsuit knowing that NSI's copyrights were not infringed; that they were targeting subscribers and not infringers; that they did not intend to actually litigate their cases.

239. Plaintiff is informed, believes, and alleges that the defendants filed their suit as part of the overall



copyright scheme, with the ulterior motive of forcing "settlements" from plaintiff and other Does. The defendants then used their complaint as leverage against the plaintiff's and other does' ignorance as to their potential defenses.

240. Plaintiff is informed, believes, and alleges that this particular copyright scheme is the CEG's brainchild.

241. Plaintiff is informed, believes, and alleges that using copyrights to "Establish a new revenue source" by way filing phony lawsuits is an unfair and deceptive practice.

242. Plaintiff is informed, believes, and alleges that the CEG used NSI's copyrights to engage in a business practice that involves allowing the distribution of their work for the purpose of generating revenue by way of a copyright infringement lawsuit scam that is directed at extorting settlements from unsuspecting subscribers under the guise of legitimate legal actions.

243. Plaintiff is informed, believes, and alleges The Defendants' unfair, unlawful, and deceptive practices occurred in the course of the Defendants' Copyright Scheme and the challenged practices directly caused actual damages and injury to plaintiff and other Does.

244. Plaintiff is informed, believes, and alleges that the CEG's monetization service is nothing more than a lawsuit

factory in which the CEG manufactures lawsuits for its clients to file, using the CEG's attorneys, so that each party may profit from the manufactures lawsuit.

245. Plaintiff is informed, believes, and alleges that each lawsuit is premeditated and schemed before any "tracking" has started and that all three involved parties are aware that they are allowing people to copy and distribute the works of the "client" for the purpose of manufacturing settlement driven lawsuits.

246. Plaintiff is informed, believes, and alleges that each lawsuit that was filed is part of the overall copyright scheme. Plaintiff is also informed,, believes and alleges that the copyright scheme is a business practice and not a lawful petition for relief.

247. Plaintiff believes and alleges that he is entitled to treble damages resulting form the defendants unfair and deceptive practices.

### **C. Attorney Marvin Cable**

#### **1. General Allegations**

248. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 247 as fully set forth herein.

249. Plaintiff is informed, believes, and alleges that

Attorney Marvin Cable is a partner of the CEG (Exhibit R).

250. Plaintiff believes and alleges that based on Mr. Cable's professional experience, he knows and knew, prior to filing any of the CEG originating lawsuits he filed against the plaintiff and similarly stipulated victims, that copyright infringement did not occur.

251. Plaintiff is informed, believes, and alleges that on July 30, 2012, before the honorable Judge Leo Sorokin, Mr. Cable conceded that suing subscribers of an internet service without knowing if they were infringers was in bad faith. Plaintiff is informed, believes, and alleges that Mr. Cable only threatened to sue subscribers of an internet service and, based on his professional experience, knew that none of them committed copyright infringement.

252. Plaintiff is informed, believes, and alleges that even though Mr. Cable conceded that pursuing subscribers was wrong it didn't stop him from doing so. Plaintiff is informed, believes, and alleges that Mr. Cable continued to coerce settlements from subscribers after that hearing with utter disregard for the court's findings.

253. Plaintiff is informed, believes, and alleges that Mr. Cable never attempted to name anyone as a defendant. Plaintiff is informed, believes and alleges that Mr. Cable is unable to show under rule 11 why he believes anyone is

an infringer. Plaintiff believes and alleges this is because Mr. Cable reasonably knew that the CEG was distributing his clients work for their client.

254. Plaintiff is informed, believes, and alleges that Mr. Cable knowingly filed all the CEG lawsuits for the purpose of extorting money for his, the CEG's and their co-conspirators' (clients') personal gain.

255. Plaintiff is informed, believes, and alleges that not one of Mr. Cable's 40 copyright lawsuits that have concluded by obtaining justice for his clients.

256. Plaintiff is informed, believes, and alleges that this court found as fact that Mr. Cable had no intention of litigation his cases.

257. Plaintiff is informed, believes, and alleges that Mr. Cable voluntarily dismissed 26 of his lawsuits largely because doe defendants were severed or protective orders were put in place. Plaintiff is informed, believes, and alleges 13 of his lawsuits were dismissed by this court, mostly for failure to prosecute or failure to comply with the court's orders.

258. Plaintiff is informed, believes, and alleges that Mr. Cable has already been sanctioned by Judge Boal for failure to comply with one of the court's orders.

259. Plaintiff is informed, believes, and alleges that this

court found as fact that Mr. Cable did not have any intention of pursuing infringers.

260. Plaintiff is informed, believes, and alleges that MR. Cable willfully engage conduct that is and was intended induce fear, stress, emotional duress, and psychological duress to more easily procure "settlements" from his and his clients' victims.

261. Plaintiff is informed, believes, and alleges that the cookie-cutter complaint was written by Mr. Cable. Considering the vague and identical nature of the complaints, plaintiff believes and alleges that Mr. Cable drafted the complaints based on the CEG's processes as opposed to any specific facts relevant to each case. Plaintiff believes and alleges that Mr. Cable deliberately crafted each complaint to hide the truth about the CEG's scam and how there is not a valid copyright infringement claim.

262. Plaintiff believes and alleges that any attorney with a shed of integrity would not have filed any of the lawsuits filed by Mr. Cable due to being unethical, fraudulent, and fictitious. Plaintiff believes and alleges that Mr. Cable intended to pass all the responsibility of the lawsuits solely on his clients; however Federal law does not condone such practices as knowingly filing false, malicious, and

frivolous lawsuits and Massachusetts law forbids it.

263. Plaintiff is informed, believes, and alleges that Mr. Cable, acting as an attorney, willfully and knowingly filed a false and malicious lawsuit against the plaintiff on May 26, 2012.

264. Plaintiff is informed, believes, and alleges that Mr. Cable, acting as an attorney, willfully and knowingly filed a false and malicious lawsuit against the similarly stipulated victims on various other dates throughout the year of 2012.

## **2. Abuse of Process**

265. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 264 as fully set forth herein.

266. Abuse of Process is defined as: the use of legal process by illegal, malicious, or perverted means. Examples include serving (officially giving) a complaint to someone when it has not actually been filed, just to intimidate an enemy, filing a false declaration of service (filing a paper untruthfully stating a lie that someone has officially given a notice to another person, filing a lawsuit which has no basis at law, but is intended to get information, force payment through fear of legal entanglement or gain an unfair or illegal advantage. Some

people think they are clever by abusing the process this way. A few unscrupulous lawyers do so intentionally and can be subject to discipline and punishment. Sometimes a lawyer will abuse the process accidentally; an honest one will promptly correct the error and apologize.<sup>3</sup>

267. Plaintiff is informed and believes that Mr. Cable 1) filed a lawsuit which has no basis at law that was 2) intended to force payment through the fear of legal entanglement.

268. Although the plaintiff was never served or named as a defendant, this court has already found that the Mr. Cable had no real intention of serving or naming anyone as defendants in their lawsuit scheme.

269. Mr. Cable identified the plaintiff as a defendant in the complaint he filed complaint, saying: "The true names of Defendants are unknown to the Plaintiff at this time. **Each Defendant is known to Plaintiff only by the Internet Protocol ("IP") address assigned to that Defendant by his, her or its Internet Service Provider on the date and at the time at which the infringing activity of each Defendant was observed.**" (Emphasis added) Page 1, paragraph 7, of defendants' complaint. Comcast, after receiving the defendants' subpoena, informed the plaintiff that the

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<sup>3</sup> Dictionary.law.com

defendants identified him as Doe 64 in lawsuit 1:12-cv-10944. Mr. Cable certified this as fact under Rule 11 by filing it.

270. On July 30, 2012, Judge Sorokin found that an IP address will not positively identify infringers, it only identifies subscribers. Judge Sorokin also found that telling subscribers that they have been sued when the defendants were, supposedly, seeking relief from infringers was inappropriate. Judge Sorokin quashed all subpoenas before him and gave Mr. Cable an opportunity to correct the matter since subscribers were more likely to be non-party witnesses than infringers. At the time, Judge Sorokin's ruling affected three lawsuits. Mr. Cable, being aware of this ruling, made no such effort to correct this matter before Judge Saylor and instead continued to pursue settlements from subscribers in all other lawsuits.

271. Plaintiff is informed and believes that Mr. Cable never sought to identify any infringers because no one infringed their copyrights. Plaintiff is informed and believes that this court already found as fact that Mr. Cable had no intention of identifying infringers.

272. Plaintiff is informed and believes that Mr. Cable used false allegations of infringement to mask the fact that subscribers were the only intended targets.



273. Plaintiff is informed and believes that Mr. Cable is and was unable to show the court why under Rule 11 they believed anyone they sought information from was an infringer.

274. On May 26, 2012, Mr. Cable filed a lawsuit on behalf of NSI asserting false allegations against the plaintiff for the purpose of deceiving the plaintiff into paying a settlement of \$3,500.

275. Plaintiff is informed, believes, and alleges that Mr. Cable's purpose for filing a lawsuit was solely to give their threat of litigation "teeth".

276. Plaintiff is informed, believes, and alleges that Mr. Cable filed the lawsuit to deliberately create the illusion that NSI had legal standing to pursue the subscribers for copyright infringement.

277. Plaintiff believes and alleges that Mr. Cable filed his client's lawsuits with full knowledge that no one infringed on their copyrights.

278. Plaintiff is informed, believes, and alleges that Mr. Cable filed the lawsuit to deliberately induce fear, stress, emotional duress, and psychological duress in order to procure "settlements" from his victims.

279. Plaintiff is informed, believes, and alleges that Mr. Cable improperly used the courts and the legal system in

general as a sort of weapon to abuse and harass the plaintiff and similarly stipulated victims.

280. Plaintiff is informed, believes, and alleges that Mr. Cable had no intention of following through with any of his 40 lawsuits for reasons such as avoiding discovery because he knew that their claims were false and without merit.

281. Plaintiff is informed, believes, and alleges that Mr. Cable had no intention of following through with any of his 40 lawsuits for reasons such as avoiding discovery to avoid exposure for partaking in a "what is essentially an extortion scheme".

282. Plaintiff believes, and alleges that NSI did not want to pursue litigation in order to avoid discovery that would reveal their consent, permission, or otherwise participation in the distribution of the work they filed lawsuits over.

283. Plaintiff is only aware of 40 lawsuits Mr. Cable filed as part of this scheme. 13 of them were dismissed by the court for failing to comply with orders and failure to prosecute and 26 were dismissed voluntarily.

284. Plaintiff is informed and believes that, to date, Mr. Cable has filed 40 nearly identical lawsuits in this court and has not once ever named a defendant or having once served an infringer. In each lawsuit, Mr. Cable only ever

sought to obtain settlements from subscribers. This is a fact that cannot be challenged as it is a matter of court record.

285. Plaintiff believes that because Mr. Cable knew that NSI allowed their work to be distributed for the purpose of copying so that they could file lawsuits against those they allowed to have access their work via torrents, plaintiff believes that Mr. Cable also knew that this demonstrates very clear bad faith since NSI lacked any standing to file lawsuits in the first place.

286. Plaintiff believes the Mr. Cable will assert that the plaintiff was never a target of the defendants' scheme, however this is directly opposed by the settlements Mr. Cable has acquired from other similarly stipulated "non-parties".

287. In summary: Plaintiff is informed, believes, and alleges: 1) that the plaintiff was identified as a defendant by Mr. Cable or was an intended target of the defendants' scheme; 2) that Mr. Cable initiated bad faith litigation against the plaintiff; 3) that Mr. Cable's intent was to intimidate the plaintiff into paying a settlement; 4) that Mr. Cable never intended to pursue the litigation it filed; 5) that Mr. Cable never intended to pursue infringers; 6) that Mr. Cable had no intention of

naming anyone as a defendant.

288. Plaintiff is informed and believes that the bare facts alone are sufficient in establishing and proving abuse of process by Mr. Cable.

### 3. Malicious Prosecution

289. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 288 as fully set forth herein.

290. Plaintiff is informed and believes that to maintain and To win a suit for malicious prosecution, the plaintiff must prove four elements: (1) that the original case was terminated in favor of the plaintiff, (2) that the defendant played an active role in the original case, (3) that the defendant did not have probable cause or reasonable grounds to support the original case, and (4) that the defendant initiated or continued the initial case with an improper purpose.

291. Plaintiff is informed, believes, and alleges that based on his IP address he was identified by the defendants as Doe 64.

292. Defendants' complaint claimed that "Each **Defendant** is known to Plaintiff only by the **Internet Protocol ("IP") address assigned to that Defendant...**" (Emphasis added).

Whereby the plaintiff, identified as Doe 64, was the defendant regardless of subscriber/infringer status. Defendants made no effort to change or other wise correct this in most of their lawsuits. This fact is irrefutable and a matter of known public record.

293. Mr. Cable has pursued defaults against known subscribers without being able to explain under Rule 11 why they believed the subscriber was an infringer. This fact is irrefutable and a matter of known public record.

294. In Case 1:12-cv-10945, Brent. J Nelson filed a motion to dismiss which contended that he was not liable, that Mr. Cable demanded \$3,500 to drop the lawsuit, that Mr. Cable acknowledged that Mr. Nelson (the subscriber) could not have infringed on his clients rights, and that Mr. Cable refused to dismiss the allegations against him regardless of the fact. These claims were never challenged by Mr. Cable. This is irrefutable and a matter of known public record.

295. It is irrefutable as a matter of known public record that the plaintiff was the defendants intended target, that the plaintiff was identified as the defendant Doe 64 in the underlying lawsuit, and that the defendants had no intention of identifying true infringers or naming defendants.

296. On May 26, 2012, the defendants initiated litigation against the plaintiff, identifying him only by his IP address as Doe 64. Plaintiff clarifies that the IP address is his because he is the one only subscriber of shared internet in his household.

297. Plaintiff appeared before the court on September 13 for a hearing on motions filed by the plaintiff, the defendants failed to appear. Plaintiff is informed and believes having to appear for a motion hearing satisfies the minimal requirement for qualifying the case as prosecution. Again, the plaintiff appeared before the court, the defendants refused to do so.

298. Plaintiff is informed, believes, and alleges that because NSI's copyrights were not infringed by way of NSI distributing, allowing the distribution of, or otherwise allowing or enabling the transactions of copying and distributing of their works the defendants had no reasonable grounds to support their case.

299. Plaintiff is informed, believes, and alleges that the lawsuit against the plaintiff was without probable cause due to NSI's personal knowledge that using the CEG's monetization service would enable or otherwise allow people to copy or distribute their work. NSI should have reasonably been aware of this since they chose to

"Establish a new revenue source" that involved secretly watching people copy their works via known uploaded torrents that were uploaded by the CEG.

300. Plaintiff is informed, believes, and alleges that each defendant played an active role in the underlying case. Mr. Cable played the role of "attorney", drafting all documents and oppositions to victims' motions, assuring the court the suits were filed in good faith, and extracting settlements from victims.

301. Plaintiff is informed and believes that the original case was dismissed in his favor. Judge Saylor's order: "the claims against all of the "Doe" defendants are severed and all claims, except those against "Doe #1," are hereby DISMISSED without prejudice." Since the claims against the plaintiff were dismissed by this court, the lawsuit was terminated in favor of the plaintiff.

302. Plaintiff is informed and believes that on December 12, 2012, Judge Saylor issued an order terminating the original case altogether. The case was terminated and this is irrefutable and a matter of public record.

303. Plaintiff was never held liable to the defendant, wherefore; the case was terminated in favor of the plaintiff.

304. Defendants are yet to file any action against the

plaintiff, or any other dismissed Doe for that matter, nearly a year after the plaintiff was dismissed. Plaintiff is informed and believes that the defendants have abandoned their claims against the plaintiff.

305. Plaintiff believes that the bare facts provided herein are sufficient in establishing and proving malicious prosecution by defendant Mr. Cable.

#### **4. Libel/Defamation of Character**

306. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 305 as fully set forth herein.

307. On May 26, 2012, NSI filed a lawsuit against the plaintiff that falsely alleged that the plaintiff violated NSI's copyrights.

308. Mr. Cable specifically identified the plaintiff by his IP address and claimed that the plaintiff was the appropriate defendant: "The true names of Defendants are unknown to the Plaintiff at this time. **Each Defendant** is known to Plaintiff only by the **Internet Protocol ("IP") address assigned to that Defendant** by his, her or its Internet Service Provider on the date and at the time at which the infringing activity of each Defendant was observed." (Emphasis added) Page 1, paragraph 7, of



defendants' complaint. Plaintiff is informed, believes and alleges that Mr. Cable filed his claim against the plaintiff or was specifically targeting the plaintiff.

309. Mr. Cable claimed that the plaintiff violated NSI's copyrights by downloading a copy of their pornographic work via bittorrent without their consent. Plaintiff believes and alleges that Mr. Cable knew these same claims were false because NSI willfully knowingly used their purportedly copyrighted work to entrap victims for the purpose of filing false claims to scare their victims into paying settlements.

310. Plaintiff is informed that Mr. Cable knew that NSI had personal knowledge of the transaction or copying and took no action to prevent said copying at the time of the copying, that NSI allowed the transaction to take place and, as a matter of law, had no legal right to sue or make allegations of rights violations or illegal activity against the plaintiff or similarly stipulated victims.

311. Plaintiff is informed, believes, and alleges that Mr. Cable asserted such false and defamatory claims for the purpose of personally obtaining undue profits by way of defrauding, scaring, and humiliating its victims, such as the plaintiff.

312. Plaintiff believes that Mr. Cable knew that the NSI

allowed, consented, or otherwise participated in the distribution of their works for the purpose of publishing false and defamatory claims against unnamed persons with intent to extort money from them.

313. Plaintiff believes Mr. Cable knew that NSI is responsible for the distribution and copying they complained of as they consented to, allowed, or were reasonably aware of the CEG's practices.

314. Plaintiff believes that NSI and Mr. Cable believe their defamation to be worth \$3,500 as this is the amount demanded by the defendants in order to make the defamatory claims disappear. By setting a value to their defamation, plaintiff believes that the defendants have established the minimum amount recoverable as damages for defamation.

#### **5. Fraudulent Misrepresentation**

315. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 314 as fully set forth herein.

316. Plaintiff is informed, believes, and alleges that Mr. Cable willfully and knowingly misrepresented, to the court, the transactions of Doe defendants as copyright infringement.

317. Plaintiff is believes, and alleges that Mr. Cable knew

that NSI's copyrights were not infringed but chose to misrepresent the torrent activity as infringement for personal gains.

318. Plaintiff believes that Mr. Cable's misrepresentations to the court has cause real damages and believes there is good cause under Rule 11 to extend fraudulent misrepresentation to his representations to the court that have affected the plaintiff.

#### **6. Attempted Extortion**

319. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 318 as fully set forth herein.

320. Plaintiff is informed, believes, and alleges that Mr. Cable conspired to and followed through with, knowingly filing a frivolous lawsuit, with no intention of pursuing litigation, for the purpose of extracting unjust and undue settlements from the plaintiff and similarly stipulated victims.

321. Plaintiff believes and alleges that Mr. Cable took the initial steps of their extortion scheme by creating and filing a frivolous lawsuit and deceptively requesting discovery, but were blocked by plaintiff's actions of filing a motion to quash/dismiss and by filing a counter

claim.

322. Plaintiff is informed, believes, and alleges that Mr. Cable has profited from extorting money from Doe defendants and intended to and attempted to do the same to the plaintiff.

323. Plaintiff is informed, believes, and alleges that Mr. Cable used the embarrassing nature of pornography and his victims' potential sexual interests to humiliate its victims into settlements by using the threat of public exposure and scrutiny via a public lawsuit. Plaintiff is informed, believes and alleges that Mr. Cable used the threat of a potentially costly lawsuit to scare the plaintiff and its other victims into paying "settlements"

324. Plaintiff is informed, believes, and alleges that Mr. cable willfully and knowingly acted in ways or partook in actions that were intended to cause emotional duress and humiliation, with reckless disregard to the plaintiff and their other victims, for the purpose of coercing them to pay money to avoid public exposure.

325. Plaintiff believes that by representing himself in the underlying matter, he removed Mr. Cable's leverage over him and diminishing any interest Mr. Cable had in pursuing or harassing the plaintiff.

326. Plaintiff believes and alleges that by representing

himself under his true name and engaging the defendants in litigation, the defendants lost any leverage they had over the plaintiff and any interest in pursuing the plaintiff as the plaintiff clearly showed them a willingness to take the fight to them during the course of the original case.

### **7. Racketeering**

327. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 326 as fully set forth herein.

328. Plaintiff is informed, believes, and alleges that Marvin Cable conspired to and followed through with, knowingly filing a frivolous lawsuit, with no intention of pursuing litigation, for the purpose of extracting unjust and undue settlements from the plaintiff and similarly stipulated victims.

329. Plaintiff believes and alleges that Marvin Cable took the initial steps of their extortion scheme by creating and filing a frivolous lawsuit and deceptively requesting discovery, but was blocked by plaintiff's actions of filing a motion to quash/dismiss and by filing a counter claim.

330. Plaintiff is informed, believes, and alleges that Marvin Cable has profited from extorting money from Doe defendants and intended to and attempted to do the same to

the plaintiff.

331. Plaintiff is informed, believes, and alleges that Mr. Cable used both the embarrassing nature of pornographic material coupled with the threat from a fraudulent lawsuit to scare and embarrass the plaintiff and similarly stipulated victims to extort "settlements" from them.

Plaintiff is informed and believes that under current racketeering laws the filing of fraudulent and malicious lawsuits in order to scare people into paying "settlements" is an act of racketeering.

332. Plaintiff is informed and believes that racketeering is illegal under 18 USC § 1961 et. Seq.

333. Plaintiff is informed, believes, and alleges that Mr. Cable willfully and knowingly filed a fraudulent lawsuit with malicious intent to scare the plaintiff and similarly stipulated victims into paying him money to avoid being sued.

334. Plaintiff has recently been made aware of the fact that his litigation expenses are not able to be considered damages under RICO because, and only because, litigation was not the intention of the action filed by the defendants. However because the defendants' intentional infliction of harm against the plaintiff, plaintiff believes he may be entitled to injunctive relief.

335. Plaintiff believes and alleges that the settlements victims agreed to contain a clause in which they agree that they are liable to the defendants. Plaintiff believes this is done purposefully to make it more difficult for paying victims to bring RICO charges or allegations once they realize what actually happened. Plaintiff requests that the court allow the RICO allegations to proceed on behalf of the other Does. Plaintiff has already set forth allegations sufficient for RICO and has requested a form of relief that would satisfy the need for hundreds of Does to file separate RICO claims against the defendants.

#### **8. Intentional Infliction of Harm**

336. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 336 as fully set forth herein.

337. Plaintiff is informed, believes, and alleges that Mr. Cable filed lawsuits against does for the purpose of causing undue stress, emotional harm, and psychological harm to place Does under duress so they could more easily extort settlements from the defendants.

338. Plaintiff is informed, believes, and alleges that Mr. Cable specifically used the embarrassing nature of NSI's works to cause emotional stress, feelings of embarrassment,

and undue stress to place Does under duress so they could more easily extort settlements.

339. Plaintiff is informed, believes, and alleges that Mr. Cable intentionally inflicted emotional and psychological harm on all Does, including the plaintiff, with reckless disregard to any conditions anyone was suffering, in order to more easily pressure them into paying settlements.

340. Plaintiff suffered emotional and psychological pains as well as undue stress and anxiety as a result of the defendants' intentional infliction of harm upon him.

#### **9. Violation of A.M.G.L. 93A: Unfair Practices**

341. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 340 as fully set forth herein.

342. Plaintiff is informed, believes, and alleges that A.M.G.L. Chapter 93A protects him from unfair and deceptive business practices.

343. Plaintiff believes and alleges that at all relevant times defendants engaged in unfair and deceptive conduct within the meaning of Chapter 93A. Defendants filed and manufactured their lawsuit knowing that NSI's copyrights were not infringed; that they were targeting subscribers and not infringers; that they did not intend to actually



litigate their cases.

344. Plaintiff is informed, believes, and alleges that the defendants filed their suit as part of the overall copyright scheme, with the ulterior motive of forcing "settlements" from plaintiff and other Does. The defendants then used their complaint as leverage against the plaintiff's and other does' ignorance as to their potential defenses.

345. Plaintiff is informed, believes, and alleges that this particular copyright scheme is the CEG's brainchild.

346. Plaintiff is informed, believes, and alleges that using copyrights to "Establish a new revenue source" by way filing phony lawsuits is an unfair and deceptive practice.

347. Plaintiff is informed, believes, and alleges that the CEG used NSI's copyrights to engage in a business practice that involves allowing the distribution of their work for the purpose of generating revenue by way of a copyright infringement lawsuit scam that is directed at extorting settlements from unsuspecting subscribers under the guise of legitimate legal actions.

348. Plaintiff is informed, believes, and alleges The Defendants' unfair, unlawful, and deceptive practices occurred in the course of the Defendants' Copyright Scheme and the challenged practices directly caused actual damages

and injury to plaintiff and other Does.

349. Plaintiff is informed, believes, and alleges that the CEG's monetization service is nothing more than a lawsuit factory in which the CEG manufactures lawsuits for its clients to file, using the CEG's attorneys, so that each party may profit from the manufactures lawsuit.

350. Plaintiff is informed, believes, and alleges that Mr. Cable is a CEG partnered attorney.

351. Plaintiff is informed, believes, and alleges that each lawsuit is premeditated and schemed before any "tracking" has started and that all three involved parties are aware that they are allowing people to copy and distribute the works of the "client" for the purpose of manufacturing settlement driven lawsuits.

352. Plaintiff is informed, believes, and alleges that each lawsuit that was filed is part of the overall copyright scheme. Plaintiff is also informed, believes, and alleges that the copyright scheme is a business practice and not a lawful petition for relief.

353. Plaintiff believes and alleges that he is entitled to treble damages resulting from the defendants unfair and deceptive practices.

### **10. Copyright Trolling**

354. Plaintiff repeats, alleges, and incorporates facts and allegations in paragraphs 12 - 353 as fully set forth herein.

355. As an attorney, Marvin Cable has a specific responsibility to defend the legal rights of his clients. However, when his "clients" ask him to engage in unlawful behavior against others, he has a specific responsibility to the potential victims and his profession to refuse to work or perform such actions for his client. Plaintiff is informed, believes, and alleges that Mr. Cable disregarded his professional responsibilities and participated in the copyright trolling scam, perpetuated by the CEG, for his own personal gains against the plaintiff and similarly stipulated victims.

356. Plaintiff is informed, believes, and alleges that Mr. Cable originally and knowingly filed the fictitious copyright infringement claims at the behest of his co-conspirators against the plaintiff and similarly stipulated victims.

357. Plaintiff is informed, believes, and alleges that Mr. Cable never brought any case to trial.

358. Plaintiff is informed, believes, and alleges that Mr.

Cable never sought to identify infringers.

359. Plaintiff is informed, believes, and alleges that Mr.

Cable never sought to name any Doe defendants.

360. Plaintiff is informed, believes, and alleges that Mr.

Cable only sought "settlements" from anonymous subscribers.

361. Plaintiff is informed, believes, and alleges that Mr.

Cable ensured that lawsuits never reached the point at which copyright misuse, an affirmative defense, could be used.

362. Plaintiff believes, under Rule 11, that the allegation

of Copyright Trolling is warranted by a non-frivolous argument for the creation of new doctrine. Currently, the only countermeasures to false copyright infringement claims are the copyright misuse doctrine and title 17, section 512(f) (DMCA misrepresentations). However the original lawsuit does not arise out of the DMCA the plaintiff is unable to assert misrepresentation allegations nor did the original lawsuit ever reach and was never intended to reach the point of litigation at which the affirmative defense of copyright misuse may be raised.

363. As of current copyright law is without any

countermeasures that can address copyright settlement/litigation factories. This is because lawsuits never reach a point of litigation to which copyright misuse

can be raised as an affirmative defense, particularly since the parties bringing the suit never intend to actually follow through with the suit or name anyone; conveniently it is this that also enables parties like the defendants to circumvent copyright misuse claims. Also, there currently is no countermeasure to the abuse or misuse of statutory damages, which are a big factor into what scares people into paying settlements.

364. A copyright trolling doctrine will create a countermeasure that specifically combats these illegitimate settlement/lawsuit factories first by making it no longer worth while to make empty threats using the statutory damages to provide a fear factor and next by assuring that copyright infringement lawsuit filed will be pursued.

#### **VIII. Damages Caused**

365. Plaintiff is on disability for Post Traumatic Stress Disorder (PTSD) that was not caused by this incident or any incidents similar to the one being complained of.

366. Plaintiff is not normally prone to unprovoked anxiety attacks, unprovoked long bouts of depression, unprovoked loss of appetite, unprovoked suicidal thoughts or feelings, unprovoked self destructive thoughts or feelings, unprovoked and extreme feelings of worthlessness, or

periods of unprovoked and excessive stress or anxiety.

367. As a direct result of all three defendants' actions, plaintiff has suffered: anxiety attacks, loss of sleep, nightmares, abnormal depression, periods of excessive stress, and periods of excessive anxiety.

368. As a direct result of all three defendants' actions, plaintiff has experienced: extreme feelings of worthlessness, severe humiliation and embarrassment, feelings and thoughts of suicide, self destructive thoughts and emotions, and fear of a \$150,000 judgment plaintiff was threatened with.

369. Plaintiff believes he is entitled to punitive damages because the Defendants' conduct was malicious, willful, wanton, intentional, and outrageous, evidencing evil motive, reckless indifference to or reckless disregard for the rights and conditions of others.

370. As a direct result of all three defendants' actions, plaintiff has suffered great and ruinous damages to his current relationship which continue to persist to this day.

371. All three defendants interfered with necessary and healthy mourning of a family member who passed away on July 3<sup>rd</sup>, 2012.

372. To defend himself in court, plaintiff feels that he was forced to expose himself to irreparable public humiliation

as well as humiliating himself before the courts. Plaintiff is unaware of how far reaching an impact defendants' public humiliation scheme since it is a matter of public record and could greatly impact him at anytime in the near or distant future.

373. Plaintiff's claimed damages are a direct result of all three defendants' frivolous and malicious actions. Defendants have acted in such described manners against plaintiff and others with the intention of causing such harms to coerce settlements and extort money. Defendants maliciously participated in frivolous litigation against the plaintiff with reckless disregard to plaintiff's condition.

374. Because of defendant's intentional infliction of harm plaintiff has suffered mental pain and anguish for humiliation, indignation, wounded pride, despair, anxiety, stress, depression, and fright. Plaintiff believes he is entitled to recover punitive damages as a result thereof.

375. Plaintiff understands that stress is a normal experience during litigation. However when a party, such as all three defendants, files or partakes in litigation of a lawsuit that is intended to inflict stress and anxiety on defendants, for the purpose of intimidating said defendants, coercing settlements, and to otherwise harass

defendants, the stress, anxiety, and destructive emotions defendants experience become a direct product of the party's malicious intentions and unlawful actions.

#### **IX. Relief Sought**

376. Plaintiff prays for the court to place permanent injunctions against the Copyright Enforcement Group and its employees forbidding them from offering "monetization" or similar services to any future clients.

377. Plaintiff prays for the court to place permanent injunctions against the Copyright Enforcement Group and its employees forbidding them from monitoring torrents for activity.

378. Plaintiff prays for the court to place permanent injunctions against the Copyright Enforcement Group and its employees forbidding them from offering legal testimony in copyright infringement lawsuits.

379. Plaintiff prays for the court to order the Copyright Enforcement Group to withdraw all evidence and declarations from all lawsuits it is presently aiding and to deem all evidence and declarations provided by the CEG as inadmissible.

380. Plaintiff prays for the court to order the CEG and Marvin Cable to cease any and all copyright related



activities.

381. Plaintiff prays for the court to award to the plaintiff \$150,000 per infringement accusation in punitive damages against the Copyright Enforcement Group for aiding and inducing copyright trolling. (\$300,000 total)

382. Plaintiff prays for the court to place permanent injunctions against Attorney Marvin Cable forbidding him from practicing copyright law in any way, shape, or form. Alternatively plaintiff prays for the court to revoke Marvin Cable's licenses to practice law for his participation in what is essentially organized crime.

383. Plaintiff prays for the court to award to the plaintiff \$150,00 per infringement accusation in punitive damages against Attorney Marvin Cable for copyright trolling and aiding copyright trolling. (\$300,000 total)

384. Plaintiff prays for the court to hold NSI accountable for copyright misuse and place upon them the penalty of copyright misuse: unenforceability of the copyright in court until the misuse has been purged and its effects no longer exist.

385. Plaintiff prays for the court to award to the plaintiff \$150,000 per infringement accusation in punitive damages against New Sensations for copyright trolling. (\$300,000 total)

386. Plaintiff prays for the court to order all three defendants to repay to each doe they coerced settlements from three times the amount settled for with relation to file 022aab5cffdc7d012751cbb0f0c62f2dbec29a83 as sanctions for RICO violations.

387. Plaintiff prays for the court to order all three defendants to disclose to the court their "cut" of all other settlements obtained through this scheme, across all lawsuits, and to repay to the respective Does three times their portion of the profits unduly obtained by the defendants, in all lawsuits, in this matter.

388. Plaintiff prays for the court to award the plaintiff with up to \$1,000,000 from each defendant for having intentionally inflicted emotional damages.

389. Plaintiff prays for the court to award the plaintiff with treble costs of litigation case 1:12-cv-10944 from all defendants (roughly \$1,000 in costs) for 93A violations.

390. Plaintiff prays for the court to award any and all costs incurred by litigating this case.

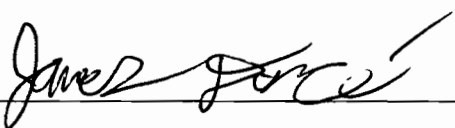
391. Plaintiff prays for the court to award the plaintiff with up to \$1,000,000 from each defendant for inducement/barratry and for willful abuse of process and malicious prosecution.

392. Plaintiff prays for the court to award the plaintiff at

least \$3,500 from Mr. Cable and NSI for defamation.

393. Plaintiff prays for the court to award plaintiff with any other punitive or exemplary damages the court deems appropriate.

The Plaintiff,

A handwritten signature in black ink, appearing to read "James Dore", is written over a horizontal line.

James Dore

8/14/2013

FILED  
U.S. District Court District of Massachusetts

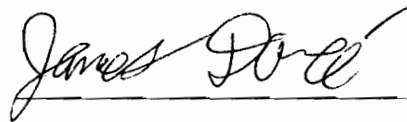
2013 AUG 20 P 12:42  
James Dore

U.S. DISTRICT COURT v.  
New Sensations Inc. et al  
1:13-cv-10315

**Notice of Filing Amended Complaint**

Pursuant to Rule 15(b) plaintiff has filed his first Amended complaint. Plaintiff asks the court to deny all prior motions to dismiss as moot.

James Dore

A handwritten signature in cursive script, reading "James Dore", is written over a horizontal line.

8/20/2013